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November 20, 2023

Honorable Naomi Reice Buchwald, U.S.D.J.
United States District Court, Southern District
500 Pearl Street
New York, New York 10007-1312

Re: Carlos Paulino vs. Rory Coyte and CSX Transportation, Inc.
Case No.: 1:22-cv-4091-NRB-JEW
Our File No.: CSX-0198-DN

Dear Judge Buchwald:

This office represents the defendant with respect to the above-captioned matter. We are in receipt of the letter regarding plaintiff's continued active treatment.

Following plaintiff's July 2023 fusion surgery, Mr. Paulino is still undergoing active physical therapy three (3) times per week and is scheduled to return for x-rays and further evaluation.

Defendants would be seriously prejudiced by having to depose Mr. Paulino when he is still undergoing active physical therapy as we will not be able to obtain his testimony as to what his condition is after he has reached maximum medical improvement. Only allowing a subsequent deposition if plaintiff undergoes another surgery would not allow defendants the opportunity to depose Mr. Paulino to obtain his testimony as to what activities he is able to engage in once he is fully recovered from his July surgery and therapy.

It is simply premature to conduct depositions in this matter while plaintiff has not completed his active treatment and reached maximum medical improvement unless the defendant will be entitled to conduct a supplemental deposition on damages once plaintiff completes his active course of treatment.

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Whether the plaintiff undergoes further surgery is irrelevant to the fact that it is premature to complete plaintiff's deposition on his alleged injuries and recovery.

Respectfully submitted,

Elias Abilheira

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Counsel for Defendants

Coyte and CSX Transportation, Inc.

EA:mb

cc: Andrey Demidoz, Esq.
Elefterakis, Elefterakis & Panek
Via ECF